



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.08.2021

CORAM

THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.15290 of 2021

Mirasu Veerappa Naidu Trust,
Rep. by its Managing Trustee,
B.Ayyasamy,

... Petitioner

Vs.

The Sub Registrar,
Sethur Sub Registry,
Rajapalayam Taluk,
Virudhunagar District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, by calling for the records of the Impugned Order of the respondent made in RFL/Sethur/14/2021, dated 13.07.2021 quash the same as illegal and arbitrary and consequently direct the respondent to register the Sale Deed presented by the Petitioner dated 13.07.2021 vide Application No.SO1LANDVV202107132419142.

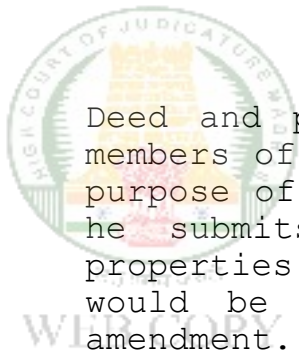
For Petitioner : M/s. A.Balaji
For Respondents : Mr.P.Subbaraj,
Counsel for State,
For Respondents

ORDER

The petitioner challenges a refusal check slip dated 13.07.2021, whereby the registration of a sale deed presented by the petitioner was refused.

2.The petitioner is a Trust constituted by a registered Trust Deed dated 31.08.1980. Such Trust Deed contained a restriction on the right to alienate the properties of the Trust. According to the petitioner, he became Managing Trustee of such Trust in the year 2012 and a school under the name of Mirasu Naidu Matriculation School was established. On account of financial stress, it was decided on 07.02.2019 to sell a part of the properties of the Trust described in Schedule "A" and "B" of the original Trust Deed. For such purpose, a Second Supplement Trust Deed dated 09.12.2019 was registered. By the Second Supplement Trust Deed, Clause-14 of the original Trust Deed was amended by enabling the sale of a part of the lands in "A" and "B" schedule. The present Writ Petition is filed in view of the refusal of the respondent to register the relevant sale deed.

3.Mr.R.Baskaran, learned counsel for the state, accepts notice on behalf of the sole respondent. He refers to the original Trust



Deed and points out that the beneficiaries of the Trust are the members of the public. In particular, he states that the object and purpose of the Trust is to impart education. In such circumstances, he submits that the stipulation in Clause-14 that the Trust properties should not be alienated and that any such alienation would be null and void cannot be obliterated by a subsequent amendment.

4. Upon perusal of the original Trust Deed, it is noticeable that Clause-14 prohibits the alienation of the properties set out in Schedule "A" and "B". In addition, it stipulates that such alienation would be null and void and not binding on the Trust. In addition, Clause-18 reiterates that the Board shall not have the power to sell the land belonging to the Trust except the property mentioned in Schedule "C". The said Clause-18 also records as under:

".....It is made clear that the intention of the Authors of the Trust is that the land comprised in Survey Nos. 307/3 K cents 0.05; 306/2E Cents 0.29; 310/5 Cents 0.59; 308/10 Cents 0.32; 310/8 Cents 0.54; 306/2 B Cents 0.41; 310/3 Cents 0.39; and more particularly described in the Schedule "B" hereunder should belong to the Trust forever without any power of the Board to sell the same like Schedule "A" Property mentioned hereunder."

5. The admitted position is that Clause-18 has not been amended. Even otherwise, it appears that the settlors intended that the property described in Schedule "A" and "B" should be retained by the Trust forever.

6. In the above facts and circumstances, the respondent cannot be faulted for refusing to register the sale deed relating to the "A" and "B" Schedule properties of the Trust. Indeed, as pointed out by learned counsel for the State, the Trust is a public Trust and the beneficiaries thereof are the members of the public. Therefore, in view of the aforesaid Clauses, the properties of the Trust in Schedule "A" and "B" of the Trust Deed should not be alienated. At a minimum, the prior express approval of a competent court would be a prerequisite.

7. Accordingly, W.P.(MD).No.15290 of 2021 is dismissed without any order as to costs.

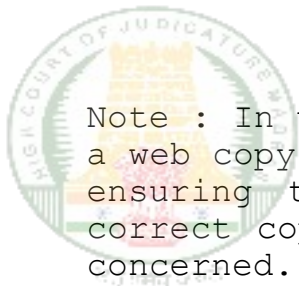
Sd/-

Assistant Registrar (P & A)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

WEB COPY

To
The Sub Registrar,
Sethur Sub Registry,
Rajapalayam Taluk,
Virudhunagar District.

+1 CC to M/s.The Special Government Pleader (SR-27623[F] dated 31/08/2021)

W.P (MD) No.15290 of 2021
27.08.2021

RS (13.09.2021) 3P 3C